

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:19-CV-464-FL

ERICA MIESHA BOYD,

Plaintiff,

v.

CATERPILLAR, INC., CHARLES
BUZZARD, and BELFLEX STAFFING,

Defendants.

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ORDER


This matter comes before the court on pro se plaintiff's motion for leave to proceed in forma pauperis (DE 1) and frivolity review pursuant to 28 U.S.C. § 1915(e). Pursuant to 28 U.S.C. § 636(b)(1)(C) and Federal Rule of Civil Procedure 72(b), magistrate judge Robert T. Numbers, Jr., entered memorandum and recommendation ("M&R"), wherein it is recommended that the court transfer this action to the United States District Court for the Middle District of North Carolina, pursuant to 28 U.S.C. § 1406(a). Plaintiff did not file objections to the M&R, and the time to do so has expired. In this posture, the issues raised are ripe for ruling. For the reasons stated herein, the court adopts the M&R, and transfers this case to the Middle District of North Carolina for further proceedings.

Upon a careful review of the M&R, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Because no objections have been filed, the court reviews the magistrate judge's findings and conclusions only for clear error and need not give any explanation for adopting the M&R. Diamond

v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir.2005); Camby v. Davis, 718 F.2d 198, 200 (4th Cir.1983).

The court finds the magistrate judge's analysis to be thorough, and there is no clear error. See, e.g., Under Seal 1 v. Under Seal 2-39, No. 19-1386, 2019 WL 6307189, at *1 (4th Cir. Nov. 25, 2019) (per curiam) (affirming dismissal under § 1915(e) for improper venue); Emrit v. Holland & Knight, LLP, 693 F. App'x 186, 187 (4th Cir. 2017) (per curiam); Emrit v. Cegavske, 692 F. App'x 706, 706 (4th Cir. 2017) (per curiam). But see Sinwell v. Shapp, 536 F.2d 15, 19 n.11 (3d Cir. 1976) ("The fact that a layman may have laid venue improperly is, standing alone, not enough to sustain an inference that the underlying claim is either frivolous or malicious."). The court hereby ADOPTS the recommendation of the magistrate judge as its own. For the reasons stated therein, plaintiff's case is TRANSFERRED to the Middle District of North Carolina for further proceedings.

SO ORDERED, this the 12th day of December, 2019.


LOUISE W. FLANAGAN
United States District Judge